

DECISION



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THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-216994.2

DATE: February 4, 1985

MATTER OF: Tritan Corporation--Reconsideration

DIGEST:

Request for reconsideration is denied where protester raises no new facts or legal arguments which were not previously considered while the initial protest was pending.

Tritan Corporation requests reconsideration of our decision in Tritan Corporation, B-216994, Nov. 27, 1984, 84-2 CPD ¶ 579. Tritan's original protest contended that erroneous oral instructions from the Department of the Navy caused it to submit a price for diesel equipment without the logistic support required by the request for proposals. Although Tritan was then given an opportunity to include a price for the support, its revised price was not the lowest price. Tritan argued that it had been prejudiced because its initial low price had been revealed by the agency to its competitors who were thereby encouraged to lower their prices. The agency denied that any initial prices had been revealed and stated that only Tritan had changed its initial price. Under these circumstances, we concluded that Tritan had not met its burden of proof and denied the protest.

Tritan's request for reconsideration is denied.

Under our Bid Protest Procedures, 4 C.F.R. § 21.9(a), a request for reconsideration must contain a detailed statement of the factual and legal grounds upon which reversal or modification is warranted and must specify any errors or law made in the decision or information not previously considered. Information not previously considered refers to information which was overlooked by

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our Office or information to which the protester did not have access when the initial protest was pending. SAFE Export Corporation--Reconsideration, B-205501.2, Jan. 17, 1983, 83-1 CPD ¶ 40.

Tritan's request merely elaborates and further supports the facts it presented in a more abbreviated version in its initial protest. For example, Tritan has submitted a letter from the Navy's contracting officer which, Tritan contends, confirms that Tritan was given erroneous information regarding the necessity for including a price for logistic support in its offer. Tritan does not, however, dispute the fact that it was permitted to revise its price after it was given correct information and does not contest the Navy's denial that Tritan's initial price was disclosed to all competitors before Tritan revised its price. Tritan does not present any new facts which were not previously considered by our Office or which were not known to Tritan at the time of its initial protest. Moreover, Tritan has specified no error of law in our decision. Apparently, Tritan expects that the investigation which it asks our Office to conduct will establish the validity of its allegations. In this regard, we point out that we will not normally conduct such an investigation under our bid protest function because it is the burden of the protester to affirmatively prove the allegations it makes in support of its protest. Basic Technology Incorporated, B-214489, July 13, 1984, 84-2 CPD ¶ 45.

Tritan's request for reconsideration also challenges the Navy's affirmative determination of the awardee's responsibility and the negative determination with regard to Tritan's responsibility which was made after the initial offers when Tritan's price was low. Our Office will not review an affirmative determination of responsibility absent a showing that the contracting officer acted fraudulently or in bad faith or the definitive responsibility criteria in the solicitation have not been met. R. R. Mongeau Engineers, Inc., B-213330, Mar. 20, 1984, 84-1 CPD ¶ 333. There has been no showing that either of these bases for our review exists in this case. Moreover, we see no good purpose to be served by our review of the

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negative determination of Tritan's responsibility. This determination became academic when Tritan's price was revised upwards so that Tritan was no longer in line for the award.

Tritan's request is denied.

for *Shelton J. Fowler*
Comptroller General
of the United States